

**SMITH & LOWNEY, P.L.L.C.**

2317 EAST JOHN STREET  
SEATTLE, WASHINGTON 98112  
(206) 860-2883, Fax (206) 860-4187

July 2, 2019

**Via Certified Mail - Return Receipt Requested**

Managing Agent  
Pierce County Recycling, Composting and Disposal, LLC d/b/a/ LRI  
17925 Meridian Street East  
Puyallup, WA 98375

Managing Agent  
Pierce County Recycling, Composting and Disposal, LLC d/b/a/ LRI  
30919 Meridian Street East  
Graham, WA 98338

Waste Connections of Washington, Inc.  
12115 NE 99th Street, Suite 1830  
Vancouver, WA 98682

Waste Connections US, Inc.  
3 Waterway Square Pl., #110  
The Woodlands, TX 77380

Re: **SUPPLEMENTAL NOTICE OF INTENT TO SUE UNDER THE CLEAN  
WATER ACT AND REQUEST FOR COPIES OF STORMWATER  
POLLUTION PREVENTION PLANS**

Dear Managing Agent:

We represent Puget Soundkeeper Alliance ("Soundkeeper"), 130 Nickerson St. #107, Seattle, WA 98109, (206) 297-7002. Any response or correspondence related to this matter should be directed to us at the letterhead address. This letter is to provide you with sixty days' notice of Soundkeeper's intent to file a citizen suit against Pierce County Recycling, Composting and Disposal, LLC d/b/a/ LRI, Waste Connections of Washington, Inc., and Waste Connections US, Inc. (collectively referred to as "LRI") under section 505 of the Clean Water Act ("CWA"), 33 U.S.C. § 1365, for the violations described below, or amend its complaint in the pending litigation to include allegations based on these violations.

LRI was granted coverage under Washington's Industrial Stormwater General Permit issued by the Washington Department of Ecology ("Ecology") on October 21, 2009, effective January 1, 2010, modified May 16, 2012, effective July 1, 2012, and set to expire on January 1, 2015, under National Pollutant Discharge Elimination System Permit No. WAR002557 (the "2010 ISGP"). Ecology granted LRI coverage under the current iteration of the Industrial

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**EPA Region 10**

**Office of the Regional Administrator**

Stormwater General Permit, issued by Ecology on December 3, 2014, effective January 2, 2015, and set to expire on December 31, 2019 (the “2015 ISGP”) and maintains the same permit number, WAR002557. The 2010 and 2015 ISGP are collectively referred to in this letter as the “ISGPs.”

LRI has violated and continues to violate the CWA (see Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342) and the terms and conditions of the 2010 Permit and the 2015 Permit (collectively, the “Permits”) with respect to operations of, and discharges of stormwater and pollutants from, its facility located at or about 30919 Meridian Street East, Graham, WA 98338 (the “facility”) as described herein, to Muck Creek (also known as South Creek), an unnamed pond and tributary to Muck (South) Creek located between the northeast corner of the facility landfill and Muck (South) Creek, unnamed wetlands adjacent to and surrounding the facility, and unnamed wetlands that are adjacent to Muck (South) Creek, including mitigation wetlands constructed by LRI. The facility subject to this notice includes any contiguous or adjacent properties owned or operated by LRI.

### **1. Numeric Effluent Limit Violations**

LRI has violated Condition S5, Table 4 of the 2015 Permit by discharging in excess of the 37 mg/L average monthly effluent limit for BOD5 (biochemical oxygen demand) as set forth in Table 1 below:

<b>Table 1</b>		
<b>Period (and date) in which sample collected</b>	<b>BOD5 concentration (monthly average)</b>	<b>BOD5 average monthly effluent limit</b>
October, 2018 (October 29, 2018)	110 mg/L	37 mg/L

### **2. Violations of Water Quality Standards**

Condition S10.A of the ISGPs prohibits discharges that cause or contribute to violations of water quality standards. In violation of Condition S10.A, LRI’s discharges cause and/or contribute to violations of water quality standards for dissolved oxygen in Muck Creek, its tributary, and the unnamed wetlands adjacent to the facility, as shown by the effluent data in Table 1 above, and have occurred each and every day during the last five years on which there was a discharge from LRI’s stormwater pond, and continue to occur.

### **3. Compliance with Standards.**

Condition S10.C of the ISGPs requires LRI to apply all known and reasonable methods of prevention, control and treatment (“AKART”) to all discharges, including preparation and implementation of an adequate stormwater pollution prevention plan (“SWPPP”) and best management practices (“BMPs”). LRI has violated and continues to violate these conditions by failing to apply AKART to its discharges or to implement an adequate and BMPs as evidenced by the elevated levels of pollutants in its discharge indicated in Table 1.

#### **4. Request for SWPPPs**

Pursuant to Condition S9.F of the 2015 Permit, Soundkeeper hereby requests that LRI provide a copy of, or access to, its ISGP SWPPP complete with all incorporated plans, monitoring reports, checklists, and training and inspection logs. The copy of the SWPPP and any other communications about this request should be directed to the undersigned at the letterhead address or via email.

Should LRI fail to provide the requested complete copy of, or access to, its ISGP SWPPP as required by Condition S9.F of the 2015 Permit, it will be in violation of that condition, which violation shall also be subject to this notice of intent to sue and any ensuing lawsuit.

Pursuant to Condition S5.G.2.b of the Washington's Construction Stormwater General Permit ("CSGP") that Ecology issued to LRI under National Pollutant Discharge Elimination System Permit No. WAR002603, Soundkeeper hereby requests that LRI provide a copy of, or access to, its CSGP SWPPP complete with all incorporated plans, monitoring reports, checklists, and training and inspection logs. The copy of the SWPPP and any other communications about this request should be directed to the undersigned at the letterhead address or via email.

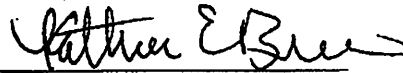
Should LRI fail to provide the requested complete copy of, or access to, its CSGP SWPPP as required by Condition S5.G of the CSGP, it will be in violation of that condition, which violation shall also be subject to this notice of intent to sue and any ensuing lawsuit.

The above-described violations are ongoing. Soundkeeper intends to sue for all violations, including those yet to be uncovered and those committed after the date of this Notice of Intent to Sue.

Under Section 309(d) of the CWA, 33 U.S.C. § 1319(d), each of the above-described violations subjects the violator to a penalty of up to \$53,484 per day for each violation. In addition to civil penalties, Soundkeeper will seek injunctive relief to prevent further violations under Sections 505(a) and (d) of the CWA, 33 U.S.C. § 1365(a) and (d), and such other relief as is permitted by law. Also, Section 505(d) of the CWA, 33 U.S.C. § 1365(d), permits prevailing parties to recover costs, including attorney's fees.

Soundkeeper believes that this SUPPLEMENTAL NOTICE OF INTENT TO SUE sufficiently states grounds for filing suit with regard to the above violations. We intend, at the close of the 60-day notice period, or shortly thereafter, to file a citizen suit against LRI under Section 505(a) of the Clean Water Act for these violations, or amend the complaint in the pending litigation to include allegations of these violations.

Sincerely,  
SMITH & LOWNEY, PLLC

By:   
Richard A. Smith  
Claire E. Tonry  
Katherine E. Brennan

Cc:

Andrew Wheeler, Administrator, U.S. EPA  
Chris Hladick, Region 10 Administrator, U.S. EPA  
Maia Bellon, Director, Washington Department of Ecology Corporation Service Company,  
Registered Agent of Pierce County Recycling, Composting and Disposal, LLC (300  
Deschutes Way SW, Ste 304, Tumwater, WA 98501)  
Corporation Service Company, Registered Agent of Waste Connections of Washington, Inc.  
(300 Deschutes Way SW, Ste 304, Tumwater, WA 98501)  
Corporation Service Company, Registered Agent of Waste Connections US, Inc. (2710  
Gateway Oaks Dr., Ste 150N, Sacramento, CA 95833)  
Maren Norton, Stoel Rives LLP, 600 University Street, Suite 3600, Seattle, WA 98101